



UNITED STATES COURT OF APPEALS  
ELEVENTH CIRCUIT

SEAN P REILLY,  
*Petitioner/Appellant,*

v.

Appeal No.: 21-11565-CC  
D.C. Case No. 4:20-cv-145-TKW-EMT

MARK S. INCH,  
Secretary, Department of Corrections,  
*Respondent/Appellee.*

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**MOTION FOR APPOINTMENT OF COUNSEL FOR ORAL ARGUMENT**

Appellant, SEAN P REILLY, moves this Honorable Court to appoint counsel for oral arguments. In support thereof, Reilly states as follows:

1. The issue Reilly presents in his brief is a matter of first impression. The District Court dismissed Reilly's § 2254 petition as second or successive. Reilly argues that his petition was not second or successive. The claims presented in his petition were still in the state courts being exhausted while the first petition was being pending in federal court.

2. Because Reilly seeks appointment of counsel in 2254 proceedings, his request is governed by 18 U.S.C. § 3006A, which provides for the adequate representation of defendants in criminal matters. *See* 18 U.S.C. § 3006A.

3. Pursuant to § 3006A(a)(2), an indigent 2254 petitioner may be appointed counsel if this Court determines that the interests of justice so require. 18 U.S.C. § 3006A(a)(2)(B). Because § 2254 proceedings are civil in nature, the interests of

justice may be justified by exceptional circumstances, such as the presence of facts and legal issues which are so novel or complex as to require the assistance of a trained practitioner. *Kilgo v. Ricks*, 983 F.2d 189, 193 (11th Cir. 1993).

4. Moreover, the interests of justice require the appointment of counsel because the factual and legal issues he raises in his appeal are complex. The issues argued in Reilly's appeal are matters of first impression. In addition, because he is incarcerated, it is difficult if not impossible for him to investigate his claims and conduct the necessary research to litigate his claims. It would be a heavy burden to have Reilly present oral argument on a matter of first impression.

5. Accordingly, appointment of counsel is appropriate in this case to promote efficient and just handling of the claims. *See* 18 U.S.C. § 3006A(a)(2)(B). *See also Battle v. Armontrout*, 902 F.2d 701, 702 (8th Cir. 1990) (holding that the district court abused its discretion in failing to appoint counsel for habeas corpus petitioner); *Richardson v. Miller*, 721 F. Supp. 1087 (W.D.Mo. 1989) (finding, on particular facts, that the interests of justice dictated appointment of counsel in a federal habeas case); *Richardson v. Miller* 721 F. Supp. 1087 (WD Mo. 1989) (extensive discussion of importance of appointing counsel in habeas corpus cases to investigate facts and prosecute potentially meritorious fact-based claims).

6. This Court granted Reilly's motion for leave to proceed IFP on appeal. Thereafter, Reilly timely filed his brief and moved for appointment of counsel.

7. Reilly has not filed his brief yet. Reilly needs the assistance of counsel in preparing his appeal brief. The issues presented are issues of first impression, and it appears that oral argument will be necessary on appeal.

WHEREFORE, Reilly respectfully requests this Honorable Court to grant this motion and afford him an attorney to assist him in preparing his appeal brief and to present oral arguments on a matter of first impression.

Respectfully Submitted,



Sean P. Reilly DC# N21886

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the foregoing has been hand-delivered to institutional staff at South Bay Correctional Facility for mailing on this 19<sup>th</sup> day of October, 2021, to: Office of the Attorney General, The Capitol – Suite PL01, Tallahassee, FL 32399.



Sean P. Reilly DC# N21886  
South Bay Correctional Facility  
P.O. Box 7171  
South Bay, Florida 33493



IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT



CASE NO.: 21-11565-A

L.T. CASE NO.: 4:20-cv-145-TKW/EMT

SEAN P REILLY,  
*Appellant,*

vs.

MARK S. INCH, et al,  
*Appellee.*

**CERTIFICATE OF INTERESTED PERSONS**  
**AND CORPORATE DISCLOSURE STATEMENT**

Pursuant to 11th Cir. R. 26.1, the Appellant, Sean P Reilly, *pro se*, hereby submits this Certificate of Interested Persons and Corporate Disclosure Statement, and in so doing certifies, to the best of his knowledge and belief, that the following list of all persons who might have an interest in the outcome of this case:

- Abrahamsen, Eric — trial prosecutor;
- Bondi, Pam, then-Attorney General of Florida;
- Campbell, Jack — State Attorney;
- Clark, Marie — Florida State University Police Sergeant;
- Davis, Jennifer — Putative Witness;
- Hankinson, James C.—trial judge;
- Harrison III, Baya—Post-conviction attorney;

- Inch, Mark – Secretary, Florida Department of Corrections;
- Kawa, Inam – Putative Witness;
- McDermott, Michael—Assistant Attorney General of Florida;
- Vega, Melissa – Putative Witness;
- Villeneuve, Paul—Trial Attorney

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Sean P. Reilly", written in dark ink.

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**Sean P Reilly DC# N21886**

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